

FOR THE UNITED STATES DISTRICT COURT  
IN THE DISTRICT OF NEW MEXICO

THOMAS NEWSOME,

Plaintiff,

v.

CIV No. 12-733 MCA/GBW

THE GEO GROUP INC., *et al.*,

Defendants.

**ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED  
DISPOSITION**

This matter comes before the Court on Defendants Timothy Hatch and Geo Group Inc.'s Motion to Dismiss and accompanying briefing. *Docs. 23, 27, 30.*

Defendants Leslie Bradley, Erasmo E. Bravo, Louis V. Carrillo, C. Chavez, Michael Fralick, FNU Rogers, Harrison Wheeler, and Joe R Williams have joined in this Motion. *Docs. 40, 42.*

On April 26, 2013, Defendants Hatch and Geo Group filed their Motion to Dismiss. *Doc. 23.* On May 24, 2013, Plaintiff responded. *Doc. 27.* After the filing of Defendant Hatch and Geo Group's Reply (*doc. 30*), the Magistrate Judge filed a Proposed Findings and Recommended Disposition ("PFRD") concluding that (1) Plaintiff's § 1983 claims arising from alleged violations of New Mexico Inspection of Public Records Act (IPRA), N.M. Stat. § 14-2-1 et seq. must be dismissed because IPRA

does not create a federal constitutional right to public records; (2) Plaintiff's common law claims as to those public records must also be dismissed because IPRA's statutory scheme supersedes any such common law right; and (3) that Plaintiff's claim of retaliation against Defendant Geo Group, Inc. is time-barred. *Doc. 43*.

While the Magistrate Judge was considering the Motion to Dismiss as to Defendant's Hatch and Geo Group, the remaining individual Defendants sought to join the Motion. *Doc. 40*. On the same day the PFRD was filed, the Magistrate Judge granted the joinder motion, and gave Plaintiff until August 20, 2013, to respond to the Motion to Dismiss as to the new individual Defendants. *Doc. 42*. Plaintiff moved for, and was granted, an extension of time to file the response until September 5, 2013. *Docs. 44, 45*. Notwithstanding that extension, no such response has been filed by Plaintiff.

In addition to his failure to file a response to the Motion to Dismiss as to the newly joined individual Defendants, Plaintiff has not filed any objections to the PFRD recommending dismissal of the claims against Defendants Hatch and Geo Group.

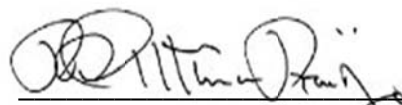
As to Defendants Hatch and Geo Group, the Court concurs with the Magistrate Judge's analysis and, therefore, I ADOPT the Magistrate Judge's Report and Recommendations (*doc. 43*). As such, Plaintiff's First, Fourth, Fifth, Ninth, and Fourteenth Amendment claims for violations of IPRA against Defendant Hatch and Geo Group are DISMISSED WITH PREJUDICE. Plaintiff's common law claim against

Defendant Hatch and Geo Group are DISMISSED WITH PREJUDICE. And Plaintiff's retaliation claim against Defendant Geo Group is DISMISSED WITH PREJUDICE.

Despite Plaintiff's failure to respond to the Motion to Dismiss as to newly-joined Defendants Bradley, Bravo, Carrillo, Chavez, Fralick, Rogers, Wheeler, and Williams, the Court will review the merits of their dismissal.

As to the viability of Plaintiff's IPRA based § 1983 claims and New Mexico common law claims, the Magistrate Judge's reasoning is equally applicable to those individual Defendants. Thus, the IPRA and common law claims against those Defendants are DISMISSED WITH PREJUDICE.

Plaintiff's First Amendment retaliation claims against Defendants Chavez, Rogers, Bradley, Fralick, and Bravo, however, are not subject to dismissal as untimely. As the Magistrate Judge correctly noted, the applicable statute of limitations for § 1983 is three years. *Doc. 43* at 7. Each of the incidents of retaliation described by Plaintiff against each of these Defendants took place, at the earliest, in 2012, and therefore these claims cannot be said to be untimely. *Doc. 20* at 94-121. Thus, the Court DENIES the Motion to Dismiss the First Amendment claims against Defendants Chavez, Rogers, Bradley, Fralick, and Bravo.



CHIEF UNITED STATES DISTRICT JUDGE